

# Appendix 1: Education Planning Obligations Policy – public consultation on proposed changes May/June 2025 outcomes report

## Consultation survey form

We received **26** responses via the consultation survey form.

The respondents identified themselves as:

Education establishment	20
District Council	1
Neighbouring authority	1
Resident	2
Other: Worcestershire Parent Carer Forum representative	2

## To the question ‘Do you agree with the proposed changes for Early Years education obligations?’ the answers were:

Yes	22
No	2
Not sure	1

The reasons the No respondents provided illustrate that they are in favour of the direction of change, but believe that they should go further: (‘Yes, but’)

## Commentary from No respondents:

**[This is Respondent A, who also said No to the SEND question]** “We support the increase in the Early Years product ratio to reflect expanded eligibility for funded childcare. However, we are concerned that the proposed financial contribution — based on primary school cost multipliers — does not adequately reflect the real cost of delivering high-quality early education, particularly for under-2s and children with SEND.

The Early Years sector is already under strain, with many settings struggling financially. Without proper cost modelling and indexing to reflect inflation and staffing ratios, there is a risk that these contributions will not support sustainable provision. Like the SEND

contribution, this appears to be based on current take-up and costs, not on projected future demand or sector needs.”

and

[This is Respondent B, who also said No to the SEND question] “This is too low a percentage, given that housing developments look to attract younger families more than the 0.22 is required to meet this growing need.”

## Our response is:

Under planning regulations, planning obligations must be

1. Necessary to make the development acceptable in planning terms
2. Directly related to the development
3. Fairly and reasonably related in scale and kind to the development

Planning decisions are made on point-in-time figures, and any developer would challenge a request for an uncertain contribution to be determined at a future point on the basis of fairness and reasonableness. We have to find the balance point where the developer is making sufficient contribution towards ever increasing costs but where the development is still determined to be viable. Too high a contribution may simply be denied by the planning committee that determines the application and WCC could end up with no contributions for education.

We fully understand both the increasing need and the increasing costs, and our proposed solution is to amend the Early Years update rates and SEND percentage used in the Education Planning Obligations Policy annually in future, to ensure that contributions keep pace with evidenced levels of demand from children and young people living in Worcestershire whilst still being considered fair and reasonable.

## Commentary from Not sure respondents:

Respondent C: “While I welcome the updated EHCP prevalence figure used to calculate developer contributions, this approach does not capture the accelerating rate of complex need among under-fives, particularly those requiring specialist placements that are currently unavailable. Without an accurate appreciation of this issue, future projections of both the numbers and types of need — and therefore the provision required — will be fundamentally flawed. This omission risks skewing sufficiency modelling and has significant implications for the shape, scale, and sustainability of the entire SEND landscape in Worcestershire.”

and

[This is Respondent E, who also said Not Sure to the SEND question] “This Policy should of [sic] been looked at years ago. In previous Scrutiny meetings it was stated School establishments, transport etc were considered. This clearly wasn’t the case. Developments have been popping up in Bromsgrove for several years and continuing but I’m not aware of 1 school that has been built. Poor consultation and breaking of building regs and planning has clearly occurred.”

## Our response is:

We are aware of the increased rate of complex need among under-fives, and we will continue to support Early Years settings to support children from 9 months to access their Nursery Education Entitlement in their local area. Education Obligations contributions for Early Years and SEND will support us to develop / enhance provisions to meet younger children's needs.

Education Obligations contributions are not only provided to build new schools, contributions also contribute to expanding existing education settings.

**To the question 'Do you agree with the proposed changes for SEND education obligations?' the answers were:**

Yes	22
No	2
Not sure	2

Again, the reasons for the No and Not sure responses provided illustrate that the respondents are in favour of the direction of change, but believe that they should go further: ('Yes, but')

## Commentary from No respondents :

[This is Respondent A, who also said No to the Early Years question] "While we welcome the acknowledgement that the proportion of pupils requiring EHCPs is increasing, using the current 4.9% figure as a fixed basis for planning contributions is flawed. This number has risen year-on-year and is likely to continue to rise due to increasing identification of needs and a growing population. A static contribution based on current figures will not account for the long-term costs of expanding and adapting specialist provision, especially as EHCPs can run until age 25. Contributions must be based on projected needs over the lifetime of new housing developments, not just a point-in-time figure."

and

[This is Respondent B, who also said No to the Early Years question] "This is nowhere near enough of an increase. Worcestershire lacks in county SEND placements and schools. The home to school transport and out of area placement spends are obscene. The only way to remedy that is to have more local provision. 4.9% would not facilitate this need. It would need to be closer to 9/10% to Meet the expected / planned need."

## Our response is:

Under planning regulations, planning obligations must be

1. Necessary to make the development acceptable in planning terms
2. Directly related to the development
3. Fairly and reasonably related in scale and kind to the development

Planning decisions are made on point-in-time figures, and any developer would challenge a request for an uncertain contribution to be determined at a future point on the basis of fairness and reasonableness. We have to find the balance point where the developer is making sufficient contribution towards ever increasing costs but where the development is still determined to be viable. Too high a contribution may simply be denied by the planning committee that determines the application and WCC could end up with no contribution for education. The proposal aligns with the SEN2 return Local Authorities have to submit to the Department for Education each year.

We fully understand both the increasing need and the increasing costs, and our proposed solution is to amend the SEND percentage used in the Education Planning Obligations Policy annually in future, to ensure that contributions keep pace with evidenced levels of demand from children and young people living in Worcestershire whilst still being considered fair and reasonable.

## **Commentary from Not sure respondents:**

**Respondent D:** “I welcome the proposed increase to the rate of contribution required for provision for children and young people with Special Educational Needs and Disabilities (SEND), which reflects the growing demand for specialist provision across Worcestershire.

However, I would urge Worcestershire County Council to also review the EHCP funding bands, which have not been increased for many years. While the proposed policy amendment addresses funding contributions linked to housing growth, the actual funding allocated to schools to support pupils with EHCPs remains insufficient in the current climate.

Schools are facing significantly higher costs—particularly in staffing, which makes up the majority of SEND expenditure—and these costs are subject to regular increases due to nationally negotiated pay awards. Without a corresponding uplift in the EHCP funding bands, schools are being placed under considerable financial pressure when attempting to meet statutory obligations and provide the level of support that pupils require.

I recommend that, alongside the planning obligations policy update, the Council conducts a comprehensive review of EHCP band funding levels to ensure they are aligned with the true cost of delivering appropriate educational provision in 2025 and beyond.”

## **Our response is:**

The review of the EHCP funding bands is not part of this Policy or consultation. The response has been shared with the senior officer for SEND Services.

And

**This is Respondent E, who also said Not Sure to the Early Years question]** “Don’t know in real terms how this will be implemented or who is held to account if it isn’t. Previous Cllr’s clearly have never been held accountable for some very questionable decisions. Including A38 work. This also needs to be factored into any more developments. Where

I live there has been constant road closures and I'm fed up of having to go all round the back roads to get near town centre. Traffic flow has to be looked at too."

We do not believe the comments made relate to Section 106 Education Obligations contributions or Policy position.

## **Comments on any other aspect of the policy:**

### **Respondent A:**

"The draft policy does not sufficiently address the compounding effect of annual growth in EHCPs. By anchoring SEND contributions to a single year's data point, Worcestershire risks underfunding specialist provision. It is crucial to adopt a rolling or uplifted projection that reflects ongoing increases, perhaps with inflation indexing or a built-in margin of error."

See response above.

### **Respondent B:**

"All though welcome, these changes do not go far enough. In particular with the radical increase in Send provision needed over the next 10 years.

Large house builders should be contributing more than this to infrastructure given the profits they make."

### **Respondent C ['Not sure' about Early Years changes]:**

"Current policy assumptions on future SEND need do not reflect the volume of pupils with complex needs who require vey specialist settings who have been turned away due to insufficient capacity and are now inappropriately placed. This omission leads to underestimation of required provision and undercollection of developer contributions.

The Early Years contribution formula should not only account for childcare entitlement hours, but also the rapidly growing number of children born with complex SEND, especially severe autism. These children require enhanced early years provision, not just more of the same."

### **Our response is:**

We fully understand both the increasing demands and the increasing costs of additional provision , and our proposed solution is to amend the Early Years uptake rates and the SEND percentage used in the Education Planning Obligations Policy annually in future, to ensure that contributions keep pace with evidenced levels of demand from children and young people living in Worcestershire whilst still being considered fair and reasonable.

If a child's school or setting cannot meet the child's needs using the support they usually offer to children who need extra help, an Education Health and Care Assessment will be conducted. An Education Health and Care Plan (EHCP) is a plan that details how the child's needs will be met. The proportion of pupils with an EHCP provides an indicator to

the number and proportion of pupils in Worcestershire who may need additional or enhanced provisions to meet their SEND needs.

### **Respondent D ['Not sure' about SEND changes]:**

“With reference to section 5.24 on Peaks in Secondary Yields, I would like to express concern that the current wording is not sufficiently specific or transparent in explaining how decisions will be made regarding the timing and level of developer contributions for secondary education.

While it is acknowledged that the full impact of housing developments on secondary education may not be immediate, and that this is factored into the pupil product ratio, the statement that “this will be further considered... particularly where developments are located within close proximity to existing schools” lacks clarity.

It is unclear:

- What criteria will be used to assess proximity or determine whether additional consideration is warranted.
- How such additional consideration will influence either the level of contribution or the timing of obligation triggers.
- Whether there will be consistency across developments or a risk of subjective interpretation.

To ensure transparency and fairness, I would suggest the policy sets out clear guidance or examples of the circumstances in which contributions may be varied or delayed, and the methodology that will be applied in making those determinations. This would support both planning authorities and education providers in understanding the rationale behind funding decisions.”

#### **Our response is:**

The in-depth analysis of both primary and secondary yields is ongoing, to determine whether there are specific factors which impact on when yields reach their peak e.g. geography, development size, dwellings sizes. The findings from this research will be taken into account in the determination of obligation triggers (the stages of construction when contribution instalments are required to be paid) and the methodology to be applied.

### **Respondent E {'Not Sure' about Early Years or SEND changes}**

“Any agreements have to be approved appropriately and any breaches dealt with. This Council have wasted far to [sic] much money as it is.”

**From respondents who agree with both categories of proposed changes:**

- “In Redditch we have an uneven spread of schools in relation to housing. It is vital that developers contribute to the infrastructure especially when it creates a housing estate a long way from established schools.

For example Trinity high school is the closest school for several recent developments and has been oversubscribed for several years.

Schools are not within walking distance in many areas. There is a lack of public transport arrangements for school access and this forces parents to use cars.”

- “I strongly agree with the policy being updated to reflect the changes in education provision and the needs of the children. The policy MUST reflect the education environment we have now and not that of 2019.”
- “Much needed.”
- “Getting funding from other sources such as developers is a good idea.

There isn’t enough funding in early years and schools, schools are making redundancies and early years providers are having to charge on top of the funding hours as it isn’t enough to survive and cuts are being made everywhere. Which needs to be addressed before more provisions are built.

Also other county’s have quality grants and they give it to providers who are outstanding which gives other providers a goal to reach and it costs extra money to keep everything outstanding. Mentor grants could be given to these who could support other providers who want to reach outstanding etc...

Qualifications need to be looked at less students want to go into childcare because how much you get paid, you get more money working in Lidl, being a childcare practitioner is hard work, if you do it right. Qualifications need to be looked at in college to make sure they are relevant childcare courses, bring bank the NNEB qualifications make nursery nursing a quality.”

## **To the question ‘Do you feel that you have been provided with sufficient information to respond to this consultation?’ the answers were:**

Yes	21
No	5

## **For the respondents who answered ‘No’ to this question, “What additional information would you have found useful in responding to this consultation?”**

- “Environment and health equality impact analysis”



## **Our response is:**

Thank you for taking the time to complete the consultation survey and provide your feedback. There is no direct environmental or health equality impact from these policy amendments.

“The rationale behind the changes proposed.”

## **Our response is:**

Thank you for taking the time to complete the consultation survey and provide your feedback.

The changes were proposed primarily to ensure that WCC policy on education planning obligations reflects the increasing requirements for early years places and SEND provision for the children who will live on new housing developments. WCC have also taken the opportunity to update references to guidance and regulations and to clarify some ambiguous points.

Our intention is to amend the Early Years uptake rates and the SEND percentage used in the Education Planning Obligations Policy annually in future, to ensure that contributions keep pace with evidenced levels of demand from children and young people living in Worcestershire whilst still being considered fair and reasonable.

“While the consultation document provides a useful overview of the proposed amendments, it would have been beneficial to have been involved earlier in the consultation process. Early engagement would have enabled stakeholders—particularly those from secondary schools—to highlight the financial pressures and constraints faced when accommodating pupils from new housing developments.

In particular, this could have supported a more proactive discussion around introducing a financial multiplier or uplift factor for all schools located within a defined proximity to a new development. These schools often bear the most immediate and significant impact, and a more tailored funding approach would help ensure they are adequately resourced to meet the resulting demand.

Earlier involvement would have allowed for these considerations to be explored in greater depth and potentially reflected in the draft proposals.”

## **Our response is:**

Thank you for taking the time to complete the consultation survey and provide your feedback.

The relevant WCC teams understand the impacts of increasing demand from local housing growth on schools with financial and physical constraints, we have to balance the demand for increased funding with the demands for additional housing, particularly affordable housing, and planning regulations which require every request for planning obligation contributions to be evidentially justified and which promote the viability of housing developments.



Our proposed solution to meeting increasing demands is to amend the Early Years uptake rates and the SEND percentage used in the Education Planning Obligations Policy annually in future, to ensure that contributions keep pace with evidenced levels of demand from children and young people living in Worcestershire whilst still being considered fair and reasonable by planning inspectors.

Your comment about early engagement with stakeholders is noted, and we will seek to work with key stakeholder representatives at the early stages of planning to co-produce future policy amendments.

- “See answers above.” Respondent C – Not Sure about Early Years changes
- “More time and promotion of this consultation to reach far more people.”

## **Our response is:**

Thank you for taking the time to complete the consultation survey and provide your feedback. We publicised this consultation through direct emails to other authorities, key political stakeholders, schools and early years providers, via newsletters to schools and early years providers, and via social media, local press and the County Council website to Worcestershire residents. We will work with our Communications team on future consultation publicity to ensure that we reach as many people as possible.

## **Other consultation responses received**

We received one response from the WCC E&I Place Planning team. This provided feedback on individual edits and suggested some helpful edits to ensure that the final policy is compliant with planning regulations.

We also received one response from the South Worcestershire Councils policy representative. This proposed some productive edits to points relating to district policy and planning regulations. None of the points raised are contentious or not supportive of the proposed changes.

## **Conclusion**

The responses to the survey are all supportive of the direction of changes proposed.

While some respondents comment that the changes do not go far enough, we believe that the amendments proposed will be acceptable in planning terms. Our recommendation of annual amendments to the percentage of pupils with SEND, and to the uptake rates for early years places, will help to ensure that the policy more accurately reflects evidenced justification for increased contributions in the future.

We recommend approval of v7.1 of the Education Planning Obligations Policy, to take effect from **xx September 2025**.